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 TRAVELERS COMMERCIAL INSURANCE COMPANY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

TRAVELERS COMMERCIAL
 INSURANCE COMPANY, a
 Connecticut corporation,

Plaintiff,

v.

NEW YORK MARINE AND
 GENERAL INSURANCE COMPANY,
 a New York corporation,

Defendants.

Case No.: 2:21-cv-5832-GW (PDx)
 Hon. George H. Wu
 Hon. M.J. Patricia Donahue

**DECLARATION OF MARK D.
 PETERSON IN SUPPORT OF
 MOTION OF PLAINTIFF
 TRAVELERS COMMERCIAL
 INSURANCE COMPANY TO
 CONSOLIDATE ITS ACTION
 WITH ACTION FILED BY
 DEFENDANT NEW YORK
 MARINE AND GENERAL
 INSURANCE COMPANY
 AGAINST INSURED**

DATE: October 17, 2022
 TIME: 8:30 a.m.
 Courtroom: 9D

NEW YORK MARINE AND
 GENERAL INSURANCE COMPANY,
 a New York corporation,

Plaintiff,

v.

AMBER HEARD, an individual,

Defendant.

Case No. 2:22-cv-04685-GW (PDx)
 Hon. George H. Wu
 Hon. M.J. Patricia Donahue

1 I, MARK D. PETERSON, do hereby declare as follows:

2 1. I am an attorney admitted to practice in the State of California and
3 before this Court and I am a partner in the law firm of Cates Peterson LLP,
4 located in Newport Beach, California. I am the partner in charge of the
5 representation of Plaintiff Travelers Commercial Insurance Company
6 (“Travelers”) in the action filed against New York Marine and General Insurance
7 Company (“ProSight”), which is assigned Case No. 2:21-cv-5832-GW (PDx) (the
8 “First Action”). As a result, I have personal knowledge of the facts set forth in
9 this declaration and if called as a witness I could and would truthfully testify to
10 them.

11 2. Travelers filed the First Action against ProSight on July 20, 2021.
12 The First Action is for declaratory relief and equitable contribution of defense
13 expenses relating to a dispute pending in the State of Virginia against the parties’
14 joint insured. The insured is a defendant in a defamation action which proceeded
15 to trial after the First Action was filed. The thrust of Travelers’ action is that
16 ProSight has not provided a proper defense to the insured, which left Travelers
17 bearing an inequitable portion of the defense. A true and correct copy of the First
18 Amended Complaint in the First Action (Dkt. 15) is attached as Exhibit 1 to the
19 accompanying Request for Judicial Notice.

20 3. On March 25, 2022, ProSight first filed a counterclaim against
21 Travelers in which ProSight seeks, among other things, a declaration that ProSight
22 did not owe Travelers or the insured anything. A true and correct copy of the
23 counterclaim, which is contained in ProSight’s Answer to First Amended
24 Complaint, Counterclaim and Demand for Jury Trial (“Counterclaim”),
25 Docket 56, is attached as Exhibit 2 to the Request for Judicial Notice.
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1 4. I am informed that in early June 2022, the trial of the Virginia action
2 against the insured concluded with a jury verdict. On July 8, 2022, ProSight filed
3 an action against the insured, Case No. 2:22-cv-04685-GW-PD (the “Second
4 Action”). I am informed that an amended complaint in the Second Action was
5 filed on July 11, 2022. The Second Action is a claim for declaratory relief in
6 which ProSight seeks various declarations concerning ProSight’s obligations to
7 the insured under ProSight’s insurance policy. ProSight filed a copy of the
8 judgment in the Virginia Action as an exhibit to its First Amended Complaint in
9 the Second Action (filed as Exhibit 4 to that amended complaint).

10 5. A true and correct copy of the First Amended Complaint in the
11 Second Action (Dkt. 5) is attached as Exhibit 3 to the Request for Judicial Notice
12 without its exhibits.

13 6. A true and correct copy of the exhibit to the First Amended
14 Complaint in the Second Action (Dkt. 5) which is the Judgment Order containing
15 the jury verdict in the underlying action is attached as Exhibit 4 to the Request for
16 Judicial Notice.

17 7. Both of these actions will require the Court and/or a jury to resolve
18 questions of the scope of ProSight’s duty to the insured, whether ProSight met its
19 obligations, and whether ProSight is excused from them.
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